



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/515,699	02/29/2000	Cameron Shea Miner	AM9-99-0227	1342

7590 05/12/2003
Samuel A Kassatly
6819 Trinidad Drive
San Jose, CA 95120

EXAMINER

WON, YOUNG N

ART UNIT	PAPER NUMBER
----------	--------------

2155

DATE MAILED: 05/12/2003

10

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/515,699

Applicant(s)

MINER, CAMERON SHEA

Examiner

Young N Won

Art Unit

2155

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 April 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3,5-14,16-20 and 39-46 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3,5-14,16-20 and 39-46 is/are rejected.
- 7) ☒ Claim(s) 2 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

1. Claims 1-20 and 39-46 have been re-examined.

Drawings

2. The objection to the drawing has been withdrawn.

EXAMINER'S AMENDMENT

3. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mr. Samuel A. Kassatly on May 8, 2003.

Claim 3 should be dependent on claim 1 rather than claim 2 as stated by the attorney.

Claim Objections

4. Claim 2 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claim 2 is dependent on claim 8, which is dependent on claim 7, which is further dependent on claim 3.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1, 3, 5, 6, 13, 16, 39, 40, 42, 45, and 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jain et al. (US 5911139 A) in view of Polnerow et al. (US 5813006 A).

As per claims 1, 13, and 39, Jain teaches of a system and a method (see abstract) for automatically (see col.14, lines 40-42 and col.30, lines 9-12) associating contextual input data with available multimedia resources, comprising (see col.2, line 53

Art Unit: 2155

to col.3, line 7 and col.3, lines 30-32): a contextual input device or means for capturing the contextual input data (see Fig.1A, #106, #108, & #110; and col.3, line 67 to col.4, line 8); an assistant device or means for processing the contextual input data captured by the contextual input device, and for formulating a query based on processed contextual input data (see Fig.1A, #122; col.6, lines 21-25; and col.9, lines 43-46); and a contextual multimedia association module or means for associating the processed contextual input data with the multimedia resources and for generating association matches (see Fig.1A, #124; and col.9, lines 54-67). Jain does not teach wherein the assistant device automatically formulates the query based on a user profile. Polnerow teaches of searching based on user profile (see col.1, lines 55-65 and col.10, lines 53-54). It would have been obvious to a person of ordinary skill in the art at the time the invention was made to employ the teachings of Polnerow within the system of Jain by automatically searching database for information based on user profile within the contextual input data and multimedia data system associating system and method because, Jain teaches of user specific property or attribute of the image for performing queries (see col.4, lines 21-40) and such attributes could be users preference according to the users profile. Since user supplies the property or attributes, theses attributes or properties could be derived according to users preference such as users profile.

As per claim 3, Jain teaches wherein the assistant device automatically formulates (see col.30, lines 9-12) the query (see col.9, lines 43-46) based on a contextual input from the user (see col.2, lines 60-65; col.2, line 67 to col.3, line 2; and col.3, lines 24-32).

As per claim 5, Jain further teaches wherein the contextual input device digitizes the contextual input data (see col.12, lines 21-32).

As per claim 6, 16, and 42, Jain further teaches wherein the assistant device presents the association matches to a user (see col.3, lines 32-38 and col.11, lines 30-46).

As per claim 40, Jain teaches wherein the assistant device automatically formulates (see col.30, lines 9-12) the query (see col.9, lines 43-46) based on a contextual input from the user (see col.2, lines 60-65; col.2, line 67 to col.3, line 2; and col.3, lines 24-32).

As per claim 45, Jain further teaches wherein the contextual multimedia association applies the query to a data store on a network (see Fig.1A, #132 and col.9, lines 43-46).

As per claim 46, Jain further teaches wherein the contextual input data are based on any one or more of image signals or audio signals; and wherein processing the contextual input data includes enhancing the quality of the any one or more of image signals or audio signals (see claim 11 and 12 rejection above).

6. Claims 2, 7-12, 14, 17-20, 43, and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jain et al. (US 5911139 A) in view of Bull et al. (US 5901287 A).

As per claims 7, 17, and 43, Jain teaches all the limitations except wherein the assistant device develops the user profile based on association matches that were previously presented to the user. Bull teaches of developing a user profile (see col.7, lines 53-57). It would have been obvious to a person of ordinary skill in the art at the time the invention was made to employ the teachings of Bull within the system of Jain by developing a user profile within the contextual input data and multimedia data system associating system and method because, this would keep track of the potential future user as well as keep track of the user's preferences for future search "primitives" to speed up the processing time.

As per claims 8, 18, and 44, Jain does not teach wherein the assistant device updates the user digital profile based on recent association matches. Bull teaches of updating the user digital profile based on recent association matches (see col.8, line 65 to col.9, line 2 and col.12, lines 2-4). It would have been obvious to a person of ordinary skill in the art at the time the invention was made to employ the teachings of Bull within the system of Jain by updating user profile within the contextual input data and multimedia data system associating system and method because, this would keep track of the potential future user as well as keep track of the user's preferences for future search "primitives" to speed up the processing time.

As per claims 2 and 14, Jain further teaches wherein the assistant device automatically formulates (see col.30, lines 9-12) the query (see col.9, lines 43-46) based on a contextual input from the user (see col.2, lines 60-65; col.2, line 67 to col.3, line 2; and col.3, lines 24-32).

As per claims 9, and 19, Jain further teaches wherein the contextual multimedia association applies the query to a data store on a network (see Fig.1A, #132 and col.9, lines 43-46).

As per claim 10, Jain further teaches wherein the network includes the World Wide Web (see col.9, lines 24-26).

As per claim 11, Jain further teaches wherein the contextual input data are based on image signals; and wherein the assistant device enhances the quality of the image signals (see col.2, lines 53-65 and col.12, lines 21-35).

As per claim 12, Jain further teaches wherein the contextual input data are based on audio signals; and wherein the assistant device enhances the quality of the audio signals (see col.13, lines 49-51).

As per claims 20, Jain further teaches wherein the contextual input data are based on any one or more of image signals or audio signals; and wherein processing the contextual input data includes enhancing the quality of the any one or more of image signals or audio signals (see claim 11 and 12 rejection above).

Response to Remarks

7. In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon

Art Unit: 2155

hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the motivation lies in the knowledge generally available to one of ordinary skill in the art. Currently there are numerous employment of the teaching of using user profiles to process a means to search databases relevant to users areas of interest, organization membership, past query searches, and the like.

Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections

are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Broadly recited claims 1, 13, and 39 remain rejected and all dependent claims for reasons set forth above remain rejected.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

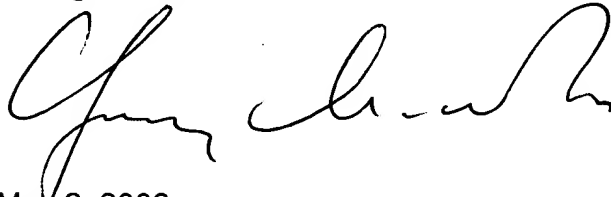
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Young N Won whose telephone number is 703-605-4241. The examiner can normally be reached on M-Th: 8AM-6PM.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ayaz R Sheikh can be reached on 703-305-9648. The fax phone numbers for the organization where this application or proceeding is assigned are 703-746-7239 for regular communications and 703-746-7238 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

Young N Won



May 8, 2003



AYAZ SHEIKH
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100